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 9 *Attorneys for Defendants The State of Arizona,
 10 Arizona Department of Child Safety ("DCS"),
 11 Madison Bell, and Mecca Temple*

12
 13 **IN THE UNITED STATES DISTRICT COURT**
 14 **FOR THE DISTRICT OF ARIZONA**

15 Jessica Kahraman, an individual; D.K., a
 16 minor, through his parent and guardian
 17 Jessica Kahraman; and K.K., a minor,
 18 through his parent and guardian Jessica
 19 Kahraman,

20 Plaintiffs,

21 v.

22 The State of Arizona, a governmental
 23 entity, et al.,

24 Defendants.

25 Case No. 2:22-cv-00375-SRB

26 **REPLY IN SUPPORT OF
 27 DEFENDANTS' MOTION FOR
 28 SUMMARY JUDGMENT**

29 The State Defendants hereby reply to Plaintiff's Response to Defendants' Motion for
 30 Summary Judgment, and state that Plaintiffs have failed to present a genuine dispute of
 31 material fact. It is the compelling, comprehensive Juvenile Court Dependency record provided
 32 by the State Defendants that includes the Stipulation by Plaintiffs' parents to evidence of their
 33 neglect, and Plaintiffs' admissions to key facts and inconsequential disputes to other facts
 34 presented in Defendants' Statement of Facts that compel summary judgment.

35 **I. INTRODUCTION**

36 There are two remaining Plaintiffs, minors KK and DK, and two remaining individual
 37 Defendants, Bell and Temple. The remaining federal constitutional claim and six state law tort
 38 claims are based on ongoing physical custody of the minor Plaintiffs as wards of the Juvenile
 39 Court. The initial removal and resulting court wardship occurred between December 28, 2018
 40 and November 9, 2020. During this time, four Juvenile Court Judges issued repeated Orders
 41 that made the Plaintiffs first temporary wards of the Court and then adjudicated Plaintiffs as

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1 wards of the Court. The initial removal and resulting court wardship of Plaintiffs was
2 conducted by persons other than Bell and Temple and was based upon probable cause found
3 by the Court supported by independent medical doctors and healthcare providers at Cardons
4 Children's Medical Center ("Cardons") who called the DCS Hotline. Over the next 22 months,
5 the Plaintiffs' parents failed to attend the initial Team Decision Meeting ("TDM") on
6 1/3/2019; failed to meaningfully contest the Preliminary Protection Hearing on 1/9/2019;
7 knowingly, intelligently, and voluntarily waived their right to a trial, and stipulated to
8 evidence of their neglect at the Adjudication Hearing held on 1/6/2020, where the Plaintiffs
9 were found to be wards of the Court as dependent children because their parents were found
10 to be unable to parent due to their neglect causing Plaintiffs' malnutrition; lost their Rule 59
11 Motion to change physical custody in which an extensive evidentiary hearing was held on
12 5/12/2020; and Juvenile Court Judge Jennifer Green issued an extensive ruling on 6/11/2020
13 with critical findings against Jessica based in part on her own, non-credible testimony.

14 While KK was hospitalized with severe malnutrition that presented a potential threat
15 to his life, Jessica offered that exposure to whiteboard markers was the cause of his
16 constellation of medical conditions. Then the issue of mold toxicity was raised by Plaintiffs
17 as a potential cause for the boys' medical condition. Mold toxicity was litigated and rejected
18 by Judge Green. Then Jessica alleged that she was improperly designated a Munchausen by
19 Proxy ("MBP") parent. This is a false narrative as MBP was never alleged in any pleading
20 filed by the Arizona Attorney General ("AG"), nor was it the basis of any Court ruling during
21 the Dependency Proceeding. Plaintiffs continue to heavily assert the false MBP narrative
22 throughout their Response which does not have any merit. Again, on 12/20/2019, Assistant
23 AG Martoncik filed a Response pleading expressly stating that the Department has never
24 alleged Mother has fictitious disorder by proxy or MBP. (SOF ¶ 48, Exhibit 242, pp. 2-3) The
25 Court's finding of neglect and resulting wardship were based on stipulated evidence of
26 malnutrition caused by the parents. (SOF ¶¶ 50-52) Plaintiffs' parents waived their right to a
27 trial at the Adjudication Hearing and accepted the neglect finding against them and
28 consequences.

1 On 11/9/2020, the Juvenile Dependency Proceeding was terminated with the status that
 2 the Plaintiffs were returned to the physical custody of their Father, the Court relieved Plaintiffs
 3 from its wardship over them, DCS, Guardian Ad Litem (“GAL”), the CASA, and the Foster
 4 Care Review Board (“FCRB”) were relieved of their responsibilities and all pending matters
 5 were declared to be moot. The Orders in place from prior rulings remained final Orders of the
 6 Juvenile Court.

7 In their Motion, Bell and Temple allege multiple bases which require summary
 8 judgment. The evidentiary record presented to the Court is either undisputed or is allegedly
 9 disputed by Plaintiffs with insignificant, immaterial, and inadmissible evidence. The record
 10 shows that this particular Juvenile Dependency Proceeding was extensively litigated through
 11 multiple court hearings, multiple motions, and multiple evidentiary hearings. Judge Green
 12 issued critical rulings in which she received testimony from Plaintiffs’ witnesses, weighed
 13 evidence and made findings of fact and rulings on custody and the reasonableness of DCS’
 14 efforts against removal.

15 Plaintiffs’ position that nothing that occurred in the Juvenile Court for 22 months has
 16 any significance here is without merit. Plaintiffs’ position that the Juvenile Court’s multiple
 17 statutorily required findings that DCS made reasonable efforts against removal are
 18 insignificant “boilerplate” rulings is patently frivolous. Plaintiffs’ claim that *Rooker Feldman*
 19 does not apply because they are not challenging Orders or alleging legal error by the Juvenile
 20 Court. In tandem, this Court dismissed Plaintiffs’ judicial deception claim because Plaintiffs
 21 do not allege that any misrepresentations by Bell or Temple were material to any judicial
 22 decision. (Doc. 45, p. 12, l. 3-18) These tandem positions that *Rooker Feldman* is inapplicable,
 23 and that there was no judicial deception material to any judicial decision inescapably leads to
 24 summary judgment.

25 It is the Juvenile Court that solely controlled what is central to Plaintiffs’ claim –
 26 “ongoing detention” as wards of the Juvenile Court. This is a protective custody case and the
 27 Plaintiffs were in the lawful custody of the Arizona Superior Court from 12/28/2018 through
 28 11/9/2020 to protect them from their stipulated neglectful parents.

1 **II. PLAINTIFFS' CONTROVERTING STATEMENT OF FACTS**

2 Plaintiffs' Controverting Statement of Facts and Additional Facts do not create a
 3 genuine issue of material fact for trial. Rule 56(c), Fed.R.Civ.P. Plaintiffs admit Defendants
 4 SOF ¶ 4 that Cardons suspected child abuse and neglect team got involved for KK, admit ¶ 7
 5 that KK had potential threat to life and limb without medical intervention; admit ¶¶ 17 and
 6 18, that the parents did not attend the TDM; admit ¶ 32 regarding the authenticity of Exhibits
 7 201 to 281 from the Juvenile Court records; admit ¶¶ 34 to 43, 45, 49, 53, 55, 57, 59, 60, 73
 8 (which included findings made by Judge Green in her 6/11/2020 Order), and admit ¶¶ 76, 78,
 9 79 and 82 (that Bell followed statutory requirements and had a reasonable basis for all actions
 10 taken as an ongoing case worker). Plaintiffs "disputed" or "disputed in part" responses to the
 11 remaining paragraphs in the SOF are inconsequential. In general, these disputes whether
 12 partial or whole, do not have evi-dentiary merit. For example, Plaintiffs dispute ¶1 which is
 13 supported by the medical records from KK's 12/18/2018 hospital admission and the sworn
 14 testimony of Dr. Ryan Stewart. The basis for Plaintiffs' dispute is asserting the false claim of
 15 mold toxicity as an alternative explana-tion for KK's critical condition that Plaintiffs first
 16 injected into the Dependency Proceedings in April 2019. Dr. Stewart opined that malnutrition
 17 was the cause of these severe conditions and Mother Jessica was the cause of KK's
 18 malnutrition. Mold as an alternative medical explanation was litigated and rejected by Judge
 19 Green. (SOF ¶¶ 42 & 45, Exhibits 229 & 236)

20 Plaintiffs also dispute facts under the false position that DCS and the Arizona Attorney
 21 General's Office proceeded on a child abuse theory claiming that Jessica Kahraman was
 22 hurting her children because she was a MBP parent. There were no pleadings filed by the AG
 23 and no court orders that were based on Jessica being alleged as a MBP parent. To the contrary,
 24 the AAG stated DCS has never alleged Jessica has MBP (SOF ¶ 48, Exhibit 242) and the
 25 parents stipulated to evidence of their neglect. (SOF ¶ 51, Exhibit 247) Plaintiffs allege that
 26 Bell and Temple are responsible for Southwest Human Development's ("SWHD") policy to
 27 use an ACCEPTS model in cases. This again is false as SWHD Supervisor Carla White
 28 testified that SWHD's policy is to use the ACCEPTS model for all cases. This is SWHD's

1 policy, and it is not done at the request of DCS. *See* Carla White deposition testimony attached
 2 hereto as Defendants' **Exhibit A** (pages 78, 79, 132, and 194). The remainder of Plaintiffs'
 3 alleged factual disputes involve matters that were presented to, and resolved by, the Juvenile
 4 Court. Plaintiffs fail to establish through admissible evidence genuine material factual
 5 disputes pursuant to Rule 56(c), Fed.R.Civ.P.

6 **III. LAW OF THE CASE DOCTRINE**

7 Plaintiffs claim that the law of the case bars this Motion for Summary Judgment
 8 because the Court denied in part the State's earlier Motion to Dismiss is without merit. The
 9 denial of motions to dismiss do not constitute law of the case for purposes of summary
 10 judgment. *Goff v. Arizona*, 526 F.Supp.3d 551 (2020). Law of the case does not apply because
 11 motions to dismiss and motions for summary judgment do not raise the same issues and are
 12 analyzed under different standards. A Motion to Dismiss filed pursuant to Rule 12(b)(6)
 13 Fed.R.Civ.P. is based on the factual allegations set forth in the Complaint. All properly alleged
 14 facts are construed as true for purposes of such motion. It is not a decision on the merits.
 15 Denials of motions to dismiss do not settle or even tentatively decide anything about the merits
 16 of the claim. It is strictly a pretrial Order that decides one thing: whether portions of Plaintiffs'
 17 Second Amended Complaint survive the initial pleadings stage. Rule 56 Motions for Summary
 18 Judgment are decided on evidence established through a Statement of Facts supported by
 19 admissible evidence taken from material portions of the record.

20 **IV. ISSUE PRECLUSION**

21 Issue preclusion precludes relitigating an issue of fact in a later case when in a previous
 22 case, the same issue was actually litigated, a final judgment was entered, and the party against
 23 whom the doctrine is to be invoked had a full and fair opportunity to litigate. *Crosby-Garbotz*
 24 v. *Fell*, 246 Ariz. 54, 434 P.3d 143 (2019) (holding that a finding of non-parental abuse in a
 25 dependency adjudication can have a preclusive effect in a later criminal prosecution of such
 26 parent). In *Lindsey M. v. Arizona Dept. Economic Security*, 212 Ariz. 43, 127 P.3d 59 (App.
 27 2006), the Court held that Arizona statutes provide that an aggrieved party may appeal from
 28 a final order of the Juvenile Court. Examples of orders in dependency proceedings that are

1 final and appealable are orders declaring children dependent and orders reaffirming findings
 2 that children are dependent, and orders issued pursuant to the Juvenile Court's periodic review
 3 of a determination of dependency or of a custodial arrangement, and orders terminating a
 4 parent's visitation rights. Both the dependency adjudication order and the disposition order
 5 awarding custody of the dependent child are separately appealable orders as are subsequent
 6 orders reaffirming a child's dependent status and ratifying or changing the child's placement
 7 are likewise final and appealable. *Id.* ¶ 9.

8 *In re Yavapai County Juvenile Action No. J-8545*, 140 Ariz. 10, 680 P.2d 146 (1984),
 9 the Arizona Supreme Court held that in a dependency proceeding there typically will be more
 10 than one "final" order subject to appeal by an aggrieved party. A parent denied and redenied
 11 control over his or her children must have the right to appeal the initial and subsequent denials.
 12 *Id.* The Supreme Court held that the Order of 1/26/1981, declaring the children to be
 13 dependent wards of the Yavapai County Juvenile Court, was a final Order, notwithstanding
 14 the fact that the determination of dependency does not dispose of all matters correlated to that
 15 determination such as assignment of legal custody. What is important is the practical reality
 16 that an order declaring a child dependent affects a fundamental right and an order dismissing
 17 a pending award of child custody precludes further action in the dismissing court. An order
 18 that disposes of an issue such that it conclusively defines the rights and/or duties of a party in
 19 a dependency proceeding in the Juvenile Court of this State such as an order declaring children
 20 dependent and an order dismissing a dependency proceeding in toto is a final order subject to
 21 appeal by an aggrieved party. *Id.*

22 In *Rita v. Arizona Dept. of Economic Security*, 196 Ariz. 512, 1 P.3d 155 (2000), the
 23 Court held that orders declaring a child dependent, reaffirming a finding of dependency or
 24 dismissing a dependency proceeding are all final appealable orders. A Juvenile Court's order
 25 terminating visitation is a final order because it conclusively defines appellant's rights
 26 regarding visitation of her children. *In the Matter of the Appeal in Maricopa County Juvenile*
 27 *Action No. JD-5312*, 178 Ariz. 372, 873 P.2d 710 (1994).

28 Plaintiffs argue that the Juvenile Court here never issued a final and appealable Order.

1 This is clearly wrong as there are several final and appealable Orders in the record. Judge
2 Udall's 1/9/2019 Order continuing the children as temporary wards of the court (SOF ¶ 25,
3 Exhibit 208), the 1/6/2020 Adjudication Hearing Order making the children wards of the court
4 as dependent children (SOF ¶¶ 50, 51 Exhibit 247), the 6/11/ 2020 Order issued by Judge
5 Green from the Rule 59 Evidentiary Hearing denying Jessica' Motion to Change Physical
6 Custody (SOF ¶ 63 through 73, Exhibit 263), the 8/31/2020 ruling on the second Rule 59
7 Evidentiary Hearing granting DCS's Motion for Change of Physical Custody to Father (SOF
8 ¶ 77, Exhibit 275), and the 11/9/2020 Order of Dismissal (SOF ¶ 80, Exhibit 281), are all final
9 and appealable Orders. The Plaintiffs did not appeal these Orders and each of them represent
10 final Judgments for purposes of issue preclusion.

11 Plaintiffs claim that Jessica's second Rule 59 Motion to Change Physical Custody
12 reopened the ruling deciding her first Rule 59 Motion is without legal basis. As established in
13 the above cases, each Order that affected her rights was a final and appealable Order. The
14 mere filing of a subsequent Rule 59 Motion to Change Physical Custody does not open or
15 magically render the prior Order not final. A subsequent Rule 59 Motion to Change Physical
16 Custody is simply a new Motion that would address evidence and circumstances at a
17 subsequent point in time. Likewise, the dismissal of the dependency position on 11/9/2020,
18 does not support an argument that physical custody was never determined as a prior final
19 appealable Order. To the contrary, it means that the Juvenile Dependency Proceedings
20 involving Plaintiffs terminated with physical custody having been awarded to the Father, and
21 the Court's wardship over the Plaintiffs ended. At that point in time, the two avenues for
22 Jessica to pursue physical custody were: (1) to appeal the dismissal; or (2) to proceed in the
23 pending Family Court case which now had jurisdiction over the Plaintiffs' custody. Jessica
24 chose not to appeal. Thus, the Orders of Judge Green for purposes of issue preclusion stand
25 as final Orders and Plaintiffs are barred from relitigating them here.

26 Plaintiffs argue that Bell and Temple ignored exculpatory evidence and opinions from
27 their litigation experts Dr. Newberger and Ann Schrookenstein. Dr. Newberger did not issue
28 a report until 5/7/2020. Judge Green barred Dr. Newberger from testifying at the 5/12/2020

1 hearing due to the extraordinarily late disclosure, non-response for a pre-hearing interview
2 request by the AG, and the unprofessional conduct of Dr. Newberger and Jessica's attorneys
3 (SOF ¶ 58, Exhibit 255). Ann Schroekenstein hired by Plaintiffs did not issue a report until
4 8/28/2020. Both of these reports came late in the 22-month court wardship.

5 The alleged exculpatory evidence was presented to the Juvenile Court by Plaintiffs and
6 they had the opportunity to obtain and present same to the Juvenile Court earlier in the
7 Dependency Proceedings. Instead, Plaintiffs' parents defiant responses to the Dependency
8 Proceedings were to not attend the TDM, not challenge the Preliminary Protective Hearing,
9 challenge jurisdiction of the Juvenile Court by filing 12 bizarre Affidavits seeking return of
10 their "biological property", raise mold toxicity as a cause of the children's medical condition,
11 waive their right to a trial, stipulate to evidence of their neglect, and accept adverse findings
12 of neglect and permanent wardship at the Adjudication Hearing, and then unsuccessfully
13 challenge physical custody at a Rule 59 Evidentiary Hearing. Plaintiffs claim that on
14 11/9/2020, that "Bell and DCS" moved to dismiss the Defendants' proceedings is false as
15 applied to Bell because the Motion was filed by the AG. The material physical custody issues
16 that control this lawsuit were fully litigated and ruled upon by the Juvenile Court.

17 **V. CLAIM PRECLUSION**

18 At the core of Plaintiffs remaining claims is the issue of physical custody during the
19 period of time between 12/28/2018 and 11/9/2020. The Juvenile Proceedings involved full,
20 complete litigation over the issues of wardship, physical custody and parent visitation all
21 controlled by the Juvenile Court. As noted above with Issue Preclusion, the Orders of
22 1/9/2019, 1/6/2020, 6/11/ 2020, 8/28/2020, and 11/9/2020 were final and appealable Orders.
23 Plaintiffs did not appeal these Orders and they represent final judgments for purposes of claim
24 preclusion.

25 Plaintiffs state that the evidence needed to prove the allegations in Count II includes
26 evidence of the standard of care applicable to ongoing case workers. This is incorrect. Count
27 II involves a constitutional claim under the Fourteenth Amendment for interference with the
28 family relationship. Plaintiffs have the burden to prove that the conduct shocked the

1 conscience, was unwarranted, vexatious and unnecessary, harassing, unfounded, arbitrary,
 2 discriminatory, or demonstratively irrelevant. Constitutional claims require proof of a
 3 deliberate mental state that is more than basic breach of the standard of care associated with
 4 State negligence claims. Claim preclusion including Plaintiffs' parents' Stipulation to
 5 evidence of their neglect bar these claims.

6 VI. ROOKER FELDMAN DOCTRINE

7 Plaintiffs claim that they are not challenging any of the adverse rulings made by the
 8 Juvenile Court against their parents. Plaintiffs concede that as courts of original jurisdiction,
 9 a Federal District Court lacks jurisdiction to review the final determinations of the State Court
 10 in judicial proceedings. *Doe Associates Law Office v. Napolitano*, 252 F.3d 1026 (9th Cir.
 11 2001). Where the District Court must hold that the State Court was wrong in order to find in
 12 favor of the plaintiff, the issues presented to both courts are inextricably intertwined.
 13 Throughout their Response, Plaintiffs criticize the Juvenile Court rulings and other persons
 14 (some of whom are former parties) beyond Bell and Temple, including the conduct of initial
 15 DCS investigator Sarah Kramer and her supervisor Sarah Mendez, the SCAN Team at Banner,
 16 including Dr. Ryan Stewart, SWHD, and the AAGs who represented DCS in the Juvenile
 17 Proceedings. The conduct of all these parties, plus the GAL, the CASA, and the FCRB, all
 18 performed their court-appointed roles that contributed to the Juvenile Court's multiple rulings
 19 regarding wardship, physical custody, and parent visitation. There can be no causally-related civil
 20 claims without challenging the removal and custody Orders of the four Juvenile Court Judges.

21 Plaintiffs state that the relief sought are money damages and injunctive relief to
 22 improve the policies and procedures of the Department and not return of custody of the boys
 23 to Mother. The money damages sought are based on the physical custody and wardship in the
 24 Juvenile Court from 12/28/2018 through 11/9/2020. There certainly is no merit to a claim for
 25 undescribed, prospective injunctive relief aimed at improving the policies and procedures of
 26 the Department in this private civil action. As noted above, if *Rooker Feldman* does not apply,
 27 that position, coupled with this Court's dismissal of the judicial deception claim, supports
 28 summary judgment.

1 **VII. LACK OF CAUSATION**

2 Lack of causation warrants summary judgment and is a central argument made
 3 throughout Defendants' Motion and Reply. For a person to be liable to another, they must
 4 cause damages to such person. When a party does not have the legal power to cause the
 5 damages claimed, they cannot be liable as a matter of law.

6 Here, Juvenile Court Judge Zabor, Commissioner Smith, Judge Udall, and Judge Green
 7 exercised their legal power to control the physical custody of Plaintiffs from 12/28/2018
 8 through 11/9/2020. Bell and Temple were not involved in the initial removal on 12/28/2018.
 9 Once involved in January 2019, Bell and Temple were two of a number of independent
 10 persons providing reports. The attorneys for both sides submitted pleadings and litigated
 11 motions and hearings before the Juvenile Court. It was the Juvenile Court Judges who made
 12 all the rulings regarding wardship and physical custody.

13 Instead, Plaintiffs claim that Bell and Temple are responsible in a vacuum for the
 14 ongoing, unwarranted detention of the Plaintiffs based on a false assertion that Temple and
 15 Bell treated this as a MBP case. *See Plaintiff's Response*, p. 21, l.11, through p. 23, l. 16. This
 16 contradicts the parents' stipulation to evidence of their neglect on 1/6/2020. This dependency
 17 case is based on neglect that led to malnutrition and not a parent being MBP. Judge Green's
 18 extensive findings in her 6/11/2020 Order involved neglect. (SOF ¶¶ 51, 52, 63 to 73)

19 **VIII. INSUFFICIENCY OF EVIDENCE**

20 **A. Count II – Constitutional Familial Association Claim**

21 Plaintiffs responded to the insufficiency of evidence by again stating this is a MBP
 22 case, which it was not. Plaintiffs also cite to standard of care opinions of their litigation
 23 standard of care expert Tim Turner, which are misplaced in response to the constitutional
 24 claim. Also, Turner did not review nor does he question the Juvenile Court Orders issued by
 25 the four Juvenile Court Judges. Turner does not have causation opinions against Bell and
 26 Temple. The evidentiary record taken as a whole shows that Plaintiffs have failed to present
 27 sufficient controverting material admissible evidence to support the constitutional claim in
 28 Count II.

1 **B. Negligence Claims – Counts VIII, IX, X, and XI.**

2 The evidentiary record before the Court supports summary judgment on the four state
 3 tort negligence claims. Plaintiffs' reliance on their litigation standard of care expert Tim
 4 Turner is misplaced. Plaintiffs present a portion of Turner's deposition testimony as Exhibit
 5 X. Turner states that "he won't overstep the court rulings and wouldn't even try." In Turner's
 6 Declaration presented as Exhibit Q, Turner discusses toxic mold and MBP without basis.
 7 Turner's opinions are not based upon the extensive proceedings that took place in Juvenile
 8 Court which controlled this issue. Turner does not present opinions regarding causation which
 9 is an essential element of the negligence claims.

10 On the negligence *per se* claim Plaintiffs cite general statutes which are not sufficient
 11 to establish negligence *per se*. *Reyes v. Frank's Service & Trucking, LLC*, 235 Ariz. 605 (App.
 12 2014). The statutes Plaintiffs cite do not require specific conduct to be performed by Bell or
 13 Temple. These statutes fail to establish a negligence *per se* claim. Again, all negligent theories
 14 lack the essential causation.

15 **C. Abuse of Process**

16 Plaintiffs' Response again presents the false narrative that Jessica was considered a
 17 MBP parent and that was the basis for DCS to move to sever her rights. DCS' request to
 18 change the case plan to termination and adoption was litigated at the 6/12/2020 Evidentiary
 19 Hearing and denied by Judge Green. The basis for DCS' position is set forth in Judge Green's
 20 Order (Exhibit 263, SOF ¶¶ 63 to 73). MBP is not discussed by the Juvenile Court. Bell and
 21 Temple did not commit abuse of process. The AAGs assigned to this matter independently
 22 prepared and filed all Motions and represented DCS at the court hearings. The abuse of process
 23 claim fails as a matter of law.

24 **D. Intentional Infliction of Emotional Distress.**

25 Plaintiffs' Response is again based on the false narrative regarding MBP. The State
 26 expressly filed a pleading advising the Court that this was not a MBP case and a Second
 27 Amended Petition. (Exhibits 244, 246, SOF ¶¶ 48, 50). No Juvenile Court Order was based
 28 on MBP. This false narrative fails to save the IIED claim as a matter of law.

1 **IX. CONCLUSION**

2 Defendants' SOF and supporting Exhibits establish multiple bases to grant summary
 3 judgment. Plaintiffs' parents stipulated to evidence of their neglect and they are bound by their
 4 Stipulation. MPB was never an issue before the Juvenile Court, and whiteboard erasers and
 5 mold were rejected. The power to remove the boys from their admittedly neglectful parents,
 6 make them wards of the Court and control physical custody between 12/28/2018 and
 7 11/9/2020 rested with the Juvenile Court. On this record Bell and Temple are entitled to
 8 summary judgment on all remaining claims.

9 RESPECTFULLY SUBMITTED this 13th day of March, 2025.

10 **BRUECKNER SPITLER SHELLS PLC**

11 By: /s/ *Larry J. Crown*

12 Larry J. Crown
 13 Elan S. Mizrahi

14 *Attorneys for Defendants The State of
 15 Arizona, Arizona Department of Child
 16 Safety ("DCS"), Madison Bell, and Mecca
 17 Temple*

18 **CERTIFICATE OF SERVICE**

19 I hereby certify that on this 13th day of March, 2025, I electronically transmitted the
 20 foregoing document to be filed electronically with the Clerk's Office through the CM/ECF
 21 System for filing and transmittal of a Notice of Electronic Filing to be served on all counsel
 22 of record via the Court's CM/ECF system.

23
 24 /s/ *Karin A. Meister*

Exhibit A

Deposition of Carla White

November 8, 2024

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Jessica Kahraman, et al.,)
)
Plaintiffs,)
)
vs.) Case No.:
)
The State of Arizona,) CV-22-00375-PHX-SRB
et al.,)
)
Defendants.)
)

DEPOSITION OF CARLA WHITE

Phoenix, Arizona
November 8, 2024
10:21 a.m.

REPORTED BY:

Kristy A. Ceton, RPR, CRR
AZ CR No. 50200

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Deposition of Carla White

November 8, 2024

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1 DEPOSITION OF CARLA WHITE

2 commenced at 10:21 a.m., on November 8, 2024, at
3 Gillespie Shields & Taylor, 7319 North 16th Street,
4 Phoenix, Arizona, before Kristy A. Ceton, RPR, CRR,
5 Arizona Certified Court Reporter No. 50200.

6

7 * * *

8

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Deposition of Carla White

November 8, 2024

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I N D E X

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EXAMINATION BY

PAGE

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Mr. Connally.....

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EXHIBITS

DESCRIPTION

PAGE

11

Exhibit 90 ACCEPTS Model of Abuser
Therapy Progress

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Exhibit 91 Bates SWHD000746 through
000751, Southwest Human
Development, Inc., Therapeutic
Supervised Visitation Report,
January 2019

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Exhibit 92 Bates SWHD001201 through
001204, Clinically Supervised
Parenting Time Monthly Report

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14

Exhibit 93 Southwest Human Development,
Inc., Therapeutic Supervised
Visitation Report, December
2019

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15

Exhibit 94 Bates SWHD000947 through
000963, Southwest Human
Development, Inc., Therapeutic
Supervised Visitation Report,
January 2020

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Exhibit 95 Arizona Department of Child
Safety, different types of
visits: therapeutic,
supervised, and unsupervised

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Deposition of Carla White

November 8, 2024

	EXHIBIT	DESCRIPTION	PAGE
1	Exhibit 96	Southwest Human Development, Inc., Notes to Consolidated Financial Statements, June 20, 2023	155
2	Exhibit 97	Southwest Human Development article	158
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Deposition of Carla White

November 8, 2024

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1 Q. Okay. And then you would take that and
2 you would assign a visitation supervisor?

3 A. Yes.

4 Q. And then you would reach out and -- reach
5 out to the parents and try to set up a visitation
6 schedule?

7 A. Yes.

8 Q. And that visitation schedule would be at
9 the frequency directed by DCS; is that right?

10 MS. PURTILL: Foundation.

11 THE WITNESS: Yes.

12 Q. BY MR. CONNELLY: So if DCS said once a
13 week or twice a week for X number of hours, that's
14 what you would set up?

15 A. Yes.

16 Q. And was it -- and is that how it happened
17 in this case where the referrals gave a number of
18 visits and a duration for the visits? And strike
19 that. I don't mean number. I mean frequency.

20 Was it your recollection that in this
21 case, it was DCS who said what the frequency of and
22 the length of the visits was to be?

23 A. Based upon the standard, yes.

24 Q. Okay. And when DCS makes that referral,
25 do they say that they want you to employ the ACCEPTS

Deposition of Carla White

November 8, 2024

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1 model --

2 MS. PURTILL: Form.

3 Q. BY MR. CONNELLY: -- with the parent?

4 A. No. Not from what I recall.

5 Q. And so after you assigned the case to a
6 visitation supervisor and reach out to the parents
7 and get a visitation schedule established, is there
8 anything else that you do?

9 For instance, what I'm wondering, I'll
10 just come right out and ask.

11 Do you identify goals to be achieved as
12 part of the therapeutic visitation process?

13 A. The goals to be achieved are associated
14 with the ACCEPTS model.

15 Q. And so that's for every case that comes
16 to you regardless of whether or not a parent has been
17 diagnosed with Munchausen?

18 MS. PURTILL: Form.

19 THE WITNESS: Yes.

20 Q. BY MR. CONNELLY: And DCS is aware that
21 you apply the ACCEPTS model to every case that's
22 referred to the special cases unit, right?

23 MS. PURTILL: Form. Foundation.

24 THE WITNESS: I'm not certain what DCS is
25 aware of.

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1 A. Yes.

2 Q. And then following section 4. In this
3 case, there appears to be another section 4 that says
4 "monthly summary/recommendations." The second to
5 last page.

6 Do you see that? It ends in 944 as the
7 Bates label down at the bottom of the page.

8 A. Yes.

9 Q. And then, on the next page, we get to the
10 treatment protocol for child abuse, right?

11 A. Yes.

12 Q. And, again, this is where there is a
13 discussion of each of the categories for the ACCEPTS
14 model, right?

15 A. Yes.

16 Q. And that's the model that Southwest was
17 using, even though this was a child neglect case, not
18 abuse, right?

19 MS. PURTILL: Form. Foundation.

20 THE WITNESS: Yes.

21 Q. BY MR. CONNELLY: And what I want to
22 direct your attention to in this section is that for
23 the acknowledgment category, the AC category, it says
24 that, "Mr. and Mrs. Kahraman do not view their
25 actions as abusive, nor have they acknowledged their

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1 the case, then, is my question?

2 A. For all -- for all cases?

3 Q. Yeah.

4 A. I can't speak on all cases.

5 Q. For the cases that you had, was the
6 ACCEPTS model something that was implemented in the
7 reporting process?

8 A. For the cases under which program?

9 Q. The -- was it special care or special
10 needs? The program which this case was -- special
11 cases family reunification program.

12 A. Yes.

13 Q. So for all the cases in the special cases
14 family reunification program, the ACCEPTS model is
15 utilized in reporting progress made during
16 therapeutic visitations, correct?

17 A. During my time. That I --

18 Q. During your time?

19 A. Yes.

20 Q. And this case was one of the cases within
21 the special cases family reunification project,
22 right?

23 A. Program.

24 Q. Program?

25 A. Yes.